IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16261 of 2004

Between:

U.L.P. E-43072, TTI, RES/MU

S/o. Late Rambhadra Raju,
R/o. Gajuwaka,

Visakhapatnam District.

..... PETITIONER

AND

1 The APSRTC,

rep., by its Managing Director,

Musheerabad, Hyderabad.
2 The APSRTC,

rep., by its Regional Manager,

Visakhapatnam Region, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not computing the periodical increments in pursuance of the Award passed by the Labour Court and rejecting the case of the petitioner vide proc. No. P1/372(1)/04-RM/VSP, Dt. 18-8-2004 as illegal and arbitrary and as such liable to be set aside with a consequential direction to the respondents herein to compute the periodical increments that would have been earned by the petitioner had he been in service during the out of employment period i.e. 5-7-1985 to 1-3-1992 and after determining such increments and on the basis of the same to fix the wage payable to the petitioner after his reinstatement i.e. on 1-3-

1992 and to pay the arrears in respect of the period subsequent to reinstatement.

Counsel for the Petitioner: Mr. S.M.SUBHAN

Counsel for the Respondents : Smt. D.G.UMA DEVI (S.C. FOR APSRTC)

The Court at the stage of admission made the following ORDER:

The petitioner is working as a Booking Clerk in the respondent-Corporation. He was removed from service through the proceedings dated 5-7-1985 on the allegation of misconduct. He filed I.D.No.80 of 1988 and the Labour Court, Visakhapatnam passed an award on 20-1-1992 ordering his reinstatement with continuity of service and without back wages. In pursuance of the award of the Labour Court, he was reinstated on 01-03-1992, but the order regarding the continuity of service was not implemented by the respondents. The petitioner made several representations, but they were not considered. Therefore, the petitioner approached this Court through this writ petition seeking a direction to the respondents to add notional increments for the out of service period and to fix his salary accordingly from the date of the reinstatement into service.

The award passed by the Labour Court indicates that on reinstatement, the petitioner is entitled for continuity of service, but the respondents appeared to have not implemented the said order by working out the notional increments for out of service period. A division Bench of this Court in "***REGIONAL MANAGER, A.P.S.R.T.C., NIZAMABAD V. B. CHANDER RAO"*** held that an employee is entitled for notional increments in pursuance of an order of the Labour Court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a judgment of the Supreme Court in "***A.P.S.R.T.C. AND ANOTHER v. S. NARSA GOUD***"[1] wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The present case is on the lines of the case covered by the judgment of the Division Bench.

In the light of the above circumstances, the petitioner is entitled to get the notional increments fixed for out of service period for the purpose of fixation of his pay from the date of reinstatement.

In the result, the Writ Petition is allowed. The respondents are directed to fix up the pay of the petitioner from the date of his reinstatement by working out the notional increments for the period from the date of termination till the date of reinstatement

within eight weeks from the date of receipt of a copy of this order.

_____

(Dr. G.YETHIRAJULU,J)

13th October, 2004.

Tsy

To

1 The Managing Drector,

APSRTC, Musheerabad, Hyderabad.

2 The Regional Manager,

APSRTC, Visakhapatnam Region, Visakhapatnam.

3 Two CCs to the GP for Transport, High Court of A.P.,

Hyderabad (O.U.T.).

4 Two CD Copies.